

#### IV. REMARKS

1. Applicants appreciate the Examiner's indication of the allowance of claims 41, 42 and 61. The Examiner indicates that claim 40 is allowed, but it is assumed that the Examiner intended 42. If this is not accurate, correction is requested. Claims 15-65 are pending.

2. Applicants also appreciate the Examiner's indication of the allowability of claims 56 and 64. However, for the reasons set forth herein, it is respectfully submitted that all the claims should be allowable.

3. Claims 16-26, 36-40, 43-55, 57, 58 and 63 are not unpatentable under 35 U.S.C. §103(a) over Schilling in view of Michael et al. ("Michael"). Claim 15 recites that "the application program is adapted to send messages to another application via the interface." This feature is not disclosed or suggested by Schilling in view of Michael. The feature is also not referred to by the Examiner in the Detailed Action.

As noted by the Examiner, Schilling does not disclose or suggest a memory or credit card for storing an application program. Thus, Schilling clearly cannot disclose or suggest that "the application program is adapted to send messages to another application via the interface" as is recited by Applicants in the claims. Michael also does not disclose or suggest that the "application program is adapted to send messages to another application via the interface" as recited in claim 15.

Michael only discloses on page 10 that the SIM card could acquire as extra services, functions of a credit card, passport, driving

license, car park pass, membership card and so on. Also, Michael further discloses on page 10, lines 19-24, that once the card has extra services on it, the card can be read or written to. There is nothing disclosed or suggested in Michael that the application program would be capable of sending messages to another application program via the interface as is claimed by Applicants. This feature of Applicants' invention is not addressed in Michael. This feature of Applicants' invention is referred to for example, on page 9, lines 19-26. An application in for example, the controlling mode, can send messages to other applications. Michaels does not disclose or suggest any such functionality or feature.

Since neither Schilling nor Michael disclose or suggest this feature of Applicants' invention, the combination cannot. Therefore, claim 15 should be allowable. Claims 26 and 46 recite similar subject matter and should also be allowable for the reasons stated above.

Claims 36-40, 43-45, 47-55, 57, 58 and 63 should also be allowable in view of their respective dependencies.

4. Claims 27-30, 34, 35, 59, 60, 62 and 65 are not unpatentable over Schilling in view of Michael further in view of Gutman et al. ("Gutman") under 35 U.S.C. §103(a). As noted above, claims 15, 26 and 46 recite that "the application program is adapted to send messages to another application program via the interface". This is not disclosed or suggested by Schilling in view of Michael. Gutman does not overcome the foregoing noted deficiencies. Gutman merely discloses an electronic wallet capable of receiving a financial card (e.g. MasterCard or Visa) 126 for reading a representation of financial information. The electronic wallet includes a financial card writer that is

capable of writing from the electronic wallet to a financial card (e.g. a universal financial card 130). However, neither of the cards 126, 130 store at least one application program and identification information as recited in claim 26. Gutman discloses financial cards according to known standards, e.g. ANSI X4.16-1983. However, Gutman does also not teach that the application program would be capable of sending messages to another application. Accordingly Gutman does not add anything that, in combination with Schilling and Michaels, would make claims 15, 26 or 46 obvious. Therefore, claim 26 is patentable. Claim 59 depends from claim 15. Claims 27-30, 34, 35 and 60 depend from claim 26 and claims 62 and 65 depend from claim 46.

These dependent claims should at least be allowable in view of dependencies.

With regard to claims 39-40, Applicants respectfully disagree that Michael inherently teaches that a storage device is removable from an interface as stated by the Examiner. The Examiner is requested to provide objective evidence to support the conclusion of inherency. (See M.P.E.P. §2112 et seq.).

5. Claims 31-33 are not unpatentable over Schilling in view of Michael, further in view of Fujii et al. ("Fujii"). Claims 31-33 depend from claim 26, which as discussed above, is not disclosed or suggested by Schilling in view of Michael. Fujii also does not overcome the deficiencies noted with respect to Schilling and Michael. First, Fujii does not disclose providing a storage device that stores at least one application program and identification information. Fujii also does not disclose or suggest an application program adapted to send messages to another application program as recited in claim 26. The Examiner does not refer to any such feature in Fujii. Thus, Fujii does

not add anything to Schilling and Michael with respect to Applicants' invention. Claims 31-33 cannot be disclosed or suggested by the combination of Schilling, Michael and Fujii, and should therefore be allowable.

Furthermore, in order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. There must also be a reasonable expectation of success, and the reference(s), when combined, must teach or suggest all of the claim limitations. (See M.P.E.P. §2142). As noted above, the combination of Schilling, Michael and Fujii does not disclose or suggest each feature of Applicants' invention as claimed, and in particular that "the application program is adapted to send messages to another application via the interface." Thus, at least for this reason, a *prima facie* case of obviousness cannot be established.

Applicants also submit that there is no suggestion or motivation to modify the references as proposed by the Examiner. The Examiner's proposition that Applicants' invention as recited in the claims would be obvious as recited is not supported by the factual contents of Schilling, Michael and Fujii. The references themselves and/or the knowledge generally available to one of skill in the art do not provide the requisite motivation or suggestion to modify the references as proposed for purposes of 35 U.S.C. §103(a). When "the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference". In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir.

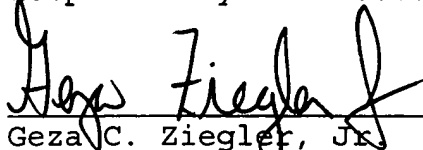
1993). Claims 31-33 are directed to performing a payment transaction over wireless communication. Fujii only discusses, for example, on pages 21-22 relied on by the Examiner, retrieving subscriber information and rewriting stored content. Thus, there is no motivation to combine Fujii with Schilling and Michaels as suggested by the Examiner. The Examiner is requested to provide an indication as to where any such teaching, suggestion or motivation appears in the reference. Absent such a teaching, it is submitted that a *prima facie* case of obviousness over Schilling, Michael and Fujii under 35 U.S.C. §103(a) is not established.

6. It is respectfully submitted that claims 15-65 are patentably distinct over claims 1-22 of U.S. Patent No. 6,418,326 and claims 13-18, 22-24 and 26-37 of U.S. Patent No. 6,078,806 for the reasons stated above.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in amount of \$410 is enclosed for a two-month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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15 July 2003  
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